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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Michael G. Martinek

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EXAMINER

LEIVA, FRANK M

ART UNIT

PAPER NUMBER

3717

NOTIFICATION DATE

DELIVERY MODE

01/04/2012

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@wavsip.com

Office Action Summary	Application No. 09/520,405	Applicant(s) MARTINEK ET AL.	
	Examiner FRANK M. LEIVA	Art Unit 3717	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 58-70, 74-76, 78, 79, 81 and 83 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 58-70, 74-76, 78, 79, 81 and 83 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Acknowledgements

1. The examiner acknowledges claims 58-70, 74-76, 78-79, 81 and 83 amended and newly canceled claim 82 in applicant's submission filed 06 September 2011.

Drawings

2. Drawing objections withdrawn in view of amendments file 06 September 2011.

Claim Objections

3. **Claim 78** is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The preamble of a non-transitory computer readable medium is already included in claim 76; claim 78 does not add anything to claim 76.

Claim Rejections - 35 USC § 112 2nd Paragraph

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. **Claim 58** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. **Claim 58** recites the limitation "the gaming program shared objects" in line 20. There is insufficient antecedent basis for this limitation.
7. **Claim 81** recites the limitation "the bonus gaming program shared object" in line 4. There is insufficient antecedent basis for this limitation.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 58-70, 74-76, 78-79, 81 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 5,592,609) in view of Mastera et al. (US 6,315,666 B1).**

10. Regarding the analogous art combination; Suzuki as applied above discloses a video game graphics program that loads program objects to be executed; and Mastera discloses a wagering game that loads Bonus gaming objects into the working ram to be executed.

11. **Regarding claims 58, 76 and 78;** Suzuki discloses a gaming system, comprising a computerized game controller (Suzuki col. 6:7-19; the game controller being the game processor of the reference), comprising a processor with a memory (RAM cassette 4) and an operating system stored in said memory, wherein the operating system runs on the computerized game controller, the controller further comprising a game state device, a nonvolatile storage (Suzuki col. 5:24-30; floppy disk 8);

wherein the operating system comprises an operating system kernel and a system handler application, (col. 27:40-52), the operating system kernel and system handler application operable to dynamically link with a plurality of gaming program shared objects and device handlers for the computerized wagering game, (col. 27:40-52), at run time when the computerized game is executed in a manner that allows the plurality of gaming program shared objects (operating system subroutines) to call a set of common functions effectively provided by the system handler application when the system handler application is executed, (col. 27:40-52);

the system handler application comprising an Application Program Interface, (game CPU interface 272), comprising functions callable from the gaming program shared objects (such as debug functions), the Application Program Interface comprising a plurality of gaming functions callable by and used by the plurality of the gaming program shared objects (buffers drivers, debug subroutines, copy Ram, or system break routines), the plurality of functions stored in the computerized game controller, (col. 21:37-64);

the system handler application operable to load and execute a gaming program shared object based on game data variables stored in the nonvolatile storage, (col. 5:19-43), wherein the gaming program shared object is configured to provide normal operation of a computerized wagering game, (col. 27:44-52), wherein a feature set is a peripheral specific set;

write the game data variables (game information) to at least one of the game state storage and nonvolatile storage when the gaming program shared object is executed, (col. 11:30-44);

Suzuki is silent to the computerized game being a wagering game, and the computerized game controller being operable to control a computerized wagering game; while

Mastera discloses a wagering game that uses game routines or game objects and loads a bonus gaming program object file, in response to a change in the stored game data variables by at least the gaming program shared object, (col. 13:5-20), the bonus object file the bonus gaming program object file configured to provide bonus operation of the computerized wagering game, (col. 13:5-20);

wherein the plurality gaming program shared objects are functional units of game code that provide a particular feature set for the computerized wagering game, and wherein the system handler application loads, executes, and unloads the plurality of gaming program shared objects one at a time during execution of the computerized wagering game, (col. 13:5-20, loading occurring when necessary for a change in game operation);

execute the bonus gaming program object file, thereby changing the computerized wagering game from normal operation to bonus operation, (fig. 10 and col. 19:54-col. 20:16); and

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the Suzuki's invention to include the common bonus games of Mastera and use bonus gaming objects in the invention as it is a well-known state of the art technique for maintaining player interest in the game.

12. Regarding claim 59; Suzuki and Mastera disclose all the limitation of claim 1 from which claim 59 depends, and Mastera further discloses wherein the game data variables comprise meter information, data to recreate the computerized wagering game upon power loss, game history, currency history, credit information, ticket printing history, or a combination thereof, (col. 9:23-35 and col. 13:5-20).

13. Regarding claim 60; Suzuki discloses wherein the system handler application comprises software having the ability when executed to: unload a previous gaming program shared object or device handler if a previous object or device handler has been loaded; load a new gaming program shared object or device handler; and execute the new gaming program shared object or device handler. (col. 28:23-36).

14. Regarding claim 61; Suzuki discloses wherein data variables modified by the plurality gaming program shared objects are stored by the system handler application in the nonvolatile storage and a game state device, and the system handler application functions to verify that the operating system or code for a shared object has not changed, (col. 1:51-2:4).

15. Regarding claim 62; Suzuki discloses wherein the game state device provides a variable name index to associated variable data locations within the nonvolatile storage, (col. 14:49-65 and 12:12-23).

- 16. Regarding claim 63;** Suzuki discloses wherein changing a data variable in nonvolatile storage causes execution of a corresponding callback function in one of the plurality gaming program shared objects of the system handler application, (col. 2:34-59).
- 17. Regarding claim 64;** Suzuki discloses wherein the computerized game controller comprises general purpose computer system, (col. 26:56-60).
- 18. Regarding claim 65;** Suzuki discloses wherein the operating system kernel is configured to execute user level code out of ROM, (col. 27:-40-52 and col. 26:22-30).
- 19. Regarding claim 66;** Suzuki discloses wherein the operating system kernel has at least one selected device handler disabled, (col. 32:40-45).
- 20. Regarding claim 67;** Suzuki discloses wherein the at least one selected device handler that is disabled is selected from the group consisting of a keyboard handler, an I/O port handler, a network interface handler, a storage device controller handler, and a I/O device handler, (col. 3:5-14).
- 21. Regarding claim 68;** Suzuki discloses wherein the system handler application and the operating system kernel work in communication to hash system handler application code and operating system kernel code, (col. 27:40-52).
- 22. Regarding claim 69;** Suzuki discloses wherein the operating system is controlled by a general-purpose computer and the nonvolatile storage stores program variables, such that loss of power does not result in loss of the state of the computerized wagering game system, and the system handler application loads a first gaming program shared object and the first gaming program shared object calls up a gaming function from within an Application Program Interface, (col. 22:8-34).

23. Regarding claim 70; Suzuki discloses wherein the system application handler loads and executes a single gaming program shared object at any one time, and wherein the system application handler shares data with at least one other gaming program shared object upon execution of the at least one other gaming program shared object, (col. 2:60-3:14).

24. Regarding claim 74; Suzuki discloses wherein the wagering game comprises a plurality of segments each comprising a gaming program shared object, wherein the system handler is operable to dynamically change the wagering game from one of the plurality of segments to another of the plurality of segments in response to the change in the stored game data variables, (col. 2:46-59).

25. Regarding claim 75; Suzuki discloses wherein the system handler is operable to dynamically change the segment of the wagering game in response to a change in at least one of the device handlers, (col. 11:45-61).

26. Regarding claim 79; Suzuki discloses further comprising a housing that contains the computerized game controller, including the operating system, the system handler application and the plurality of functions, (fig. 1A; console).

27. Regarding claim 81; Suzuki and Mastera disclose all the limitations of claim 58 as applied above, and Mastera further discloses wherein the gaming program shared object is unloaded and the bonus gaming program object file is loaded upon changing from normal game operation to bonus operation, with relevant data for the gaming program shared object and the bonus gaming program object file stored in nonvolatile storage, (col. 12:35-57 and col. 13:5-20).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the Suzuki invention to include the common use of bonus gaming objects in the invention as it is a well-known state of the art technique for maintaining player interest in the game.

28. Regarding claim 83; Suzuki discloses wherein the plurality of gaming program shared objects share data only through the game state device, (col. 2:46-55, as covered by the reference all the objects data sharing is performed using solely the game state device; that is the floppy, the cartridge and the system RAM).

Examiner's Note

29. The referenced citations made in the rejection(s) above are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed "In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee

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pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-F 11:00 am - 4:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Melba Bumgarner can be reached on (571) 272-4709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melba Bumgarner/

Supervisory Patent Examiner, Art Unit 3717

/F. M. L./

Examiner, Art Unit 3717